



State of Washington  
Department of Revenue

# Excise Tax Advisory

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Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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## PUBLIC ROAD CONSTRUCTION FOR PRIVATE INDIVIDUALS

Issued September 23, 1966

Where a road is constructed on land owned by the county but the paving is paid for by an individual rather than the county, is the contractor taxable as a public road contractor?

The term "sale at retail" in RCW 82.04.050 specifically excludes labor and services in the construction of any "publicly owned" road. Such activities are subject to the Public Road Construction classification of the Business and Occupation Tax (RCW 82.04.280). Public road contractors are defined as consumers of all materials used in the construction work and must pay the Retail Sales Tax on their purchases of materials or the Use Tax if no Sales Tax has been paid.

The Commission holds that streets or roads dedicated to the county are "publicly owned" and, thus, the contractor's labor and services are not subject to Sales Tax even though paid for by someone other than the county. The contractor is subject to the Business and Occupation Tax under "Public Road Construction" and must pay Sales Tax and Use Tax on materials used, but does not collect any Sales Tax from the person letting the contract. (Letter.)

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***ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.***

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